

Nevada Club, Inc., d/b/a Fitzgerald's Hotel/Casino and Professional, Clerical and Miscellaneous Employees Local Union No. 995, Affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Case 32-RC-823

April 2, 1981

DECISION ON REVIEW

On November 15, 1979, the Acting Regional Director for Region 32 issued his Decision and Direction of Election in the above-entitled proceeding. He therein broadened the Petitioner's requested unit of front desk clerks, PBX operators, reservation clerks, night auditor, and front desk cashiers employed at the Employer's hotel and casino to include all hotel, food, and beverage department employees. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Petitioner filed a timely request for review of the Acting Regional Director's decision contending, *inter alia*, that in making the above unit determination he departed from officially reported Board precedent. The Employer filed an opposition thereto.

By telegraphic order dated December 21, 1979, the Board granted the request for review and stayed the election pending decision on review.

The Board has considered the entire record in this proceeding with respect to the issue under review and makes the following findings:

The Employer operates a hotel and casino. Its 16-floor facility includes bars, restaurants, dining and banquet rooms, kitchens, and 342 guestrooms. Apart from the casino, the Employer employs approximately 322 employees in 3 departments; 157 in the hotel department, 140 in the food department, and 25 in the beverage department. Meta Fitzgerald has overall responsibility for the Employer's operations, including its labor relations policy. Ronald Canada manages the hotel department and reports directly to Fitzgerald. The managers of the food and beverage departments report directly to either Canada or Fitzgerald.

The record shows the following organizational and operating structure within the hotel department. The employee complement of the front desk is approximately 10 and includes desk clerks, cashiers, a night auditor, and the front desk manager.¹

¹ The front desk manager, Leon Hernandez, is hourly paid as are the other front desk employees. He makes up the work schedule but that must be approved by Hotel Department Manager Canada. Hernandez performs the same work as the other front desk employees and has no authority to hire or discharge employees. We find that Hernandez is not a supervisor and we shall include him in the unit found appropriate herein.

performs some clerk and cashier duties since he is the only front desk employee on the 10:45 p.m. to 6:45 a.m. shift. There are approximately 13 employees in the PBX room, trained as both PBX operators and reservation clerks. There are, however, no reservation clerks on duty from 11 p.m. to 7 a.m. and during that time reservations are taken by front desk employees. The six auditing employees begin work at 6 a.m. in a room behind the front desk counting the night's receipts from the hotel, food, and beverage departments. They then move to the fourth floor for additional accounting and book-keeping duties.

The hotel department's approximately 10 bellmen do some housekeeping and room service tasks since employees regularly assigned these duties do not work the night shift. Also, some of the approximately 17 valet parking attendants have, as required, occasionally worked as bellmen. The hotel department also includes laundry, housekeeping, and casino cleaning employees. The latter are responsible for cleaning the front desk area, the bellmen's area, and the valet parking area in addition to their duties in the casino.

The Acting Regional Director also found, in addition to the above-cited examples of employee interchange, regular work contact between and within the hotel, food, and beverage departments. The front desk employees, sought by the Petitioner, are in regular contact with the bellmen, valet parkers, food and beverage department cashiers, and the auditing section. None of the employees in the latter categories is included in the Petitioner's requested unit. The bellmen also regularly interact with the PBX operators and with the valet parking attendants.

The record also reveals, *inter alia*, the following transfers within and between the Employer's three main departments. Four front desk employees have transferred to the auditing group. One housekeeping employee has also transferred to the auditing group but the record reveals that this transfer lasted only for 2 months.

Approximately six valet parking employees have transferred to bellmen positions. Housekeeping employees have become parking, laundry, or casino cleaning employees. One valet parking employee regularly works 1 day per week in housekeeping. The record also shows that beverage department employees have transferred to hotel department jobs as bellmen and parking attendants. The Employer has also occasionally substituted employees across departmental lines. For example, a PBX/reservations worker was temporarily assigned duty as a cocktail waitress and front desk personnel have

on occasion performed the housekeeping function of checking guestrooms.

In broadening the Petitioner's primary request, as described above, the Acting Regional Director relied, in part, on the regular work contacts within and between all three departments and the history of permanent employee transfers within and between all three departments. The Acting Regional Director placed further reliance on the fact that all hotel, food, and beverage employees are hourly paid, use the same employee facilities, and share the same medical, vacation, and holiday plans. He concluded, based on his finding of a "clear pattern of integration of employee functions within and across departmental lines," that the requested unit was inappropriate because it lacked a community of interest distinct from other employees. The Acting Regional Director cited *Island Holidays, Ltd. d/b/a Coco Palms Hotel*, 201 NLRB 522 (1973), and *Howard Johnson Company*, 201 NLRB 376 (1973).

The Petitioner contends that the unit of clerical employees sought does possess a distinct community of interest and that the degree of functional integration of these employees with other hotel employees and with the food and beverage department employees is too low to require a combined unit.

The Employer opposes the Petitioner's request by arguing that area practice calls for the organization of hotel/casino facilities into two units—one of restaurant and bar employees and a residual unit of hotel employees. The Employer further asserts that three hotel/casinos in the Reno-Lake Tahoe area, similar to its own, have been organized in overall hotel units and that no separate units of hotel clericals have been found appropriate.

For the reasons stated below we find merit in the Petitioner's contention. While the record does support the Acting Regional Director's findings as to employee transfers and interchanges, we note that all but one of the cited instances are compatible with the Petitioner's requested unit. That exception deals with the four permanent transfers of front desk employees to the auditing group.² All remaining instances of permanent employee transfer and all instances of employee interchange³ have been either among classifications within a white-collar

unit of front desk, PBX, and auditing employees or among other hotel department classifications and beverage or food department classifications.

The Acting Regional Director's reliance on *Coco Palms, supra*, is misplaced. There clerical employees were included in a hotelwide unit only because, in addition to a finding that all employees shared a sufficient community of interest, such inclusion was requested by the Petitioner. Here, on the other hand, the Petitioner specifically seeks a separate unit of hotel clerical employees. The second case relied on by the Acting Regional Director, *Howard Johnson Company*, 201 NLRB 376, has recently been overruled by the Board in *Howard Johnson Company*, 250 NLRB No. 161 (1980). In the latter case we found that a hotel unit excluding front desk clericals was appropriate and we approved the Regional Director's citation of *Ramada Inns, Inc.*, 221 NLRB 689 (1975), which held that a single overall hotel unit is mandatory only where functions and mutual interests are highly integrated.

We find, however, based on the record evidence reviewed herein, that the white-collar clerical employees of the Employer, including the auditing employees, constitute an appropriate unit with a distinct community of interest. The functional integration of these employees with the remaining blue-collar hotel employees and the food and beverage department employees whom the Employer would include is insufficient to require a different conclusion. While the Acting Regional Director has shown extensive work-related contacts between clerical and nonclerical employees, the Board has never held that white-collar employees may only be represented within an overall hotel unit simply because of contact with nonclerical employees without a showing of significant functional integration.⁴ Such integration is not shown here by the record evidence on transfers and interchange.

As to the Employer's contention with respect to area practice in the hotel/casino industry, we note that it has not specified what units were sought in the three area facilities cited in its request for review. The Employer is correct in noting that *Hotel Equities, d/b/a The Regency Hyatt House*, 171 NLRB 1347 (1968), relied on by the Petitioner, does not compel a finding that front desk and other clerical employees are precluded in all instances from inclusion in a unit of blue-collar operating personnel. However, that case is inapposite here. It

² The record does not provide a basis for distinguishing between the front desk employees and the "back desk" auditing employees with regard to the appropriateness of their inclusion in a single clerical or white-collar unit. Since the Petitioner does not object to the inclusion of the auditing employees in its requested unit, we shall include them in the unit found appropriate herein.

³ We view the temporary assignment of a PBX operator to duty as a waitress and the occasional use of a front desk employee to check on room status as isolated instances of irregular interchange which do not detract from our finding of a clerical unit.

⁴ In *Palmetto Hospitality Services, Inc. d/b/a Golden Eagle Motor Inn*, 246 NLRB 323 (1979), the Board did include front desk clericals and night auditors in an overall hotel unit based on a finding of extensive interchange. There, however, the entire facility employed only 28 employees, all of whom had the same immediate supervision. In the instant case, the Employer's facility has approximately 322 employees in a considerably more complex and differentiated operation.

is clear that if a petitioner seeks an overall unit, *Regency Hyatt House* does not preclude one. The Employer thus has not shown that our granting the Petitioner the smaller unit it seeks is inconsistent with either Board law or area practice.

Since the Board excludes hotel clericals from overall units when requested by a petitioner and when community-of-interest considerations so warrant, we now adopt the logically consistent policy of granting such a separate unit of hotel clericals upon a request supported by an adequate showing of a distinct community of interest.

Therefore, on the basis of the foregoing and the record as a whole, we conclude that the following unit is appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time front desk clerks, PBX operators, reservation clerks, night auditors, front desk cashiers, accounting employees, and the front desk manager employed by the Employer at its Reno, Nevada, facility; but excluding housekeeping employ-

ees, bellmen, parking attendants, purchasing and receiving employees, casino cleaning employees, laundry employees, all other hotel department employees, food department employees, beverage department employees, casino gaming employees, maintenance employees, guards, and supervisors as defined in the Act.

Accordingly, we shall remand the case to the Regional Director for the purpose of conducting an election pursuant to the Acting Regional Director's Decision and Direction of Election, as modified herein, except that the eligibility payroll period therefor shall be that immediately preceding the date of issuance of this Decision on Review.⁵

⁵ As the unit found appropriate herein is broader than the unit sought by the Petitioner, conduct of the election is conditioned upon the Petitioner's demonstrating, within 10 days from the date hereof, that it has an adequate showing of interest in the broader unit found appropriate. In the event the Petitioner does not wish to participate in an election in the unit found appropriate, we shall permit it to withdraw its petition without prejudice upon notice to the Regional Director within 5 days from the date of this Decision on Review.

[*Excelsior* footnote omitted from publication.]